

Mr. Camboses  
GGM

14295

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-194770

DATE: July 15, 1980

MATTER OF: Bureau of Alcohol, Tobacco, and Firearms,  
[Obligating Funds for Strip Stamps]

AGC 00080

DIGEST: Regardless of whether Bureau of Alcohol, Tobacco and Firearms (ATF) places order for strip stamps with Bureau of Engraving pursuant to either 31 U.S.C. § 686 or 26 U.S.C. § 6801, it may obligate annual appropriations at the end of the fiscal year only to the extent stamps are printed, in process or a contract has been entered into by the Bureau with a third party to provide the stamps to ATF. 31 U.S.C. § 686-1, 34 Comp. Gen. 708 (1955). However, we would not object to ATF's automatically obligating its next fiscal year's appropriation to cover the remainder of the order based on information provided by the Bureau on the extent to which it has filled the particular order as of the close of the fiscal year.

AGC 000821

This is in response to a request for an advance decision from Glen A. McDonald, Certifying Officer, Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury, asking whether ATF may obligate annual appropriations at the end of the fiscal year to the extent that orders placed with the Bureau of Engraving (Bureau) for strip stamps prior to the end of the fiscal year are either printed or in process. Further, he asks whether the unfilled portion of the order (that is, not printed or in process) can automatically be charged to the next fiscal year appropriation without an additional order being placed. For the reasons stated below, our answer is yes to both of these questions.

Strip stamps which come in various colors and sizes evidence the determination of the Federal excise tax on liquors or indicate compliance with Federal laws on containers of distilled spirits. The stamps are attached to the container in such a way that they are broken (thus voiding them) upon opening the containers.

~~011325~~

AGC 00038

112786

B-194770

The strip stamps are provided free of charge to private parties who order them through ATF field offices. These orders are then forwarded to ATF headquarters in Washington for processing. Requisitions are then placed with the Bureau of Engraving sufficient to fill the outstanding orders. The Bureau prints the stamps and ships them to the private individuals initially ordering them. Within three weeks of the close of the month, the Bureau bills ATF its costs and is reimbursed by ATF from appropriated funds made available for this purpose. ATF obligates funds on the last day of the month to cover all orders placed during the month.

In the absence of any other authority, section 601 of the Economy Act of 1932, as amended (31 U.S.C. § 686), authorizes inter- or intra-agency orders for work, services, supplies, materials or equipment (work) and reimbursement to the performing agency of its actual cost in providing the requisitioned work. However, inter- or intra-agency orders under 31 U.S.C. § 686 which are chargeable to the requesting agency's appropriations available for one fiscal year only or for some other limited period of time are required by 31 U.S.C. § 686-1 to be deobligated at the expiration of the appropriation's period of availability for obligation, to the extent that the performing agency has not performed the work. (This does not apply in those few instances when the performing agency is not required to do the work in-house. If the performing agency is authorized to contract for the work on behalf of the requesting agency, and has actually entered into such a contract, the funds remain obligated until the work has been completed in order to pay the contractor.) 55 Comp. Gen. 1497 (1976); 39 Comp. Gen. 317 (1959); 31 Comp. Gen. 83 (1951).

The rule is the same even when inter- or intra-agency orders are voluntarily placed pursuant to some authority other than 31 U.S.C. § 686. They constitute obligations only to the extent the performing agency has completed the work or contracts have been awarded to fill the order. 34 Comp. Gen. 708 (1955). However, when inter- or intra- agency orders are required by law or statutory regulation to be placed with a particular agency, then the order constitutes an obligation when placed, and there is no requirement to deobligate at the end of the period of availability for unfilled portions of the order. 35 Comp. Gen. 3, 5 (1955).

Mr. McDonald states in its submission that ATF places orders for strip stamps pursuant to 31 U.S.C. § 686. However, he also states that ATF is required by law to place orders for strip stamps with the Bureau. We were informally advised by an official of ATF that the provision thought to require orders be placed with the Bureau is 26 U.S.C. § 6801, which provides:

"(b) Preparation and distribution of regulations, forms, stamps and dies.—The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, and stamps; and shall provide proper and sufficient adhesive stamps and other stamps or dies for expressing and denoting the several stamp taxes; except that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary, under such controls for the protection of the revenue as shall be deemed necessary."

Prior to 1976, the language of this section was the same except that it omitted the "except" clause. The purpose in adding this clause is set out in the report of the Senate Finance Committee accompanying the 1976 amendment which states:

## "II. GENERAL STATEMENT

### "A. EVIDENCE OF TAX PAYMENT ON DISTILLED SPIRITS CONTAINERS

#### "Present law

"\* \* \* Present law (sec. 6801) restricts the preparation and distribution of the strip stamps to the Treasury Department. The stamps are now made by the Bureau of Engraving and Printing.

#### "Reasons for change

"Recent developments in the technology of bottle and container closures indicates that it may become simpler for distillers and less costly to the Federal Government in the future to use

devices other than paper stamps as evidence of payment of the excise tax on distilled spirits. For example, the evidence of this tax payment might be printed on a metallic strip used to form the closure on a bottle; this strip also would be broken and thereby voided when the bottle is opened. The printing costs to be borne by the parties who are authorized to print such stamps.

\* \* \* \* \*

"In order to permit the Treasury Department to take advantage of modern technology, and to reduce its manufacturing and administrative costs, the committee has approved this bill, which authorizes the use of 'other devices' as well as tax stamps and which, with safeguards, authorizes the Treasury to have such devices prepared and distributed by private parties." S. Rep. No. 94-1319, 2-3 (1976).

Accordingly, since 1976 the Treasury Department has been specifically authorized to contract for the production and distribution of strip stamps by private non-Government concerns. We have been informally advised that Treasury is currently studying the feasibility of having strip stamps produced and distributed by private concerns, just as other devices authorized by 26 U.S.C. § 6801 are produced and distributed. See 27 C.F.R. §§ 19.663 and 19.664 appearing in 44 Fed Reg. 71673 (December 11, 1979).

While ATF still procures its strip stamps from the Bureau of Engraving, it is not legally required to do so. Thus any order placed pursuant to 26 U.S.C. § 6801 may be considered as voluntary for the purpose of recording obligations. Consequently, whether the orders are placed pursuant to 31 U.S.C. § 686 or 26 U.S.C. § 6801, the effect on obligations would be the same. The annual appropriation used to pay for strip stamps would have to be deobligated at the end of the fiscal year to the extent that any order remains unfilled (that is, stamps not printed or in process) on the last day of the fiscal year.

B-194770

We have no objection to ATF's automatically obligating its appropriation to cover the remainder of the order, based on information provided by the Bureau on the extent to which it has filled the particular order as of the close of the fiscal year. Since the need for the strip stamps continues, we see no point in requiring that ATF submit an additional order for the unfinished portion of work begun in one fiscal year and completed in another.

*Milton J. Fowler*

For The Comptroller General  
of the United States